

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4162 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NATWARBHAI CHHAGANLAL

Versus

DIRECTOR

Appearance:

MR JJ YAJNIK for Petitioner

M/S MG DOSHIT & CO for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE R.BALIA.

Date of decision: 13/12/96

ORAL JUDGEMENT

1. This petition is directed against the order of transfer of the petitioner from Paraplegia Hospital to the Kitchen Department of Civil Hospital primarily on the ground that there being no post of Sweeper in the Civil Hospital and he will be required to discharge the function of Assistant Cook in the Kitchen Department, it would amount to transfer outside the cadre which would be

contrary to the decision of this Court in Bhagwatiprasad Gordhandas Bhatt v. The State of Gujarat & ors. reported in 18 GLR 568 and would be violative of Article 14 and 16 of the Constitution of India. In return it has been clearly stated by the respondents that the factual foundation laid down by the petitioner is not correct. It has been stated in para 6 of the return that in the said kitchen the duty of the petitioner would have been essentially that of sweeping and cleaning the kitchen and stores and other places attached to the said kitchen. In view of this reply, the facts stated in the petition about change of cadre appears is not well founded. However, since petitioner is continuing at his parent place of appointment since 1985 as a result of interim order continuing throughout the pendency of this petition, I deem it appropriate that at this distance of time, the petitioner may not be subjected to the order of transfer made in 1985. However, if the exigency of service so require, the respondents are free to make the fresh order. Petitioner accordingly stands disposed of. No order as to costs.